



# **PROPOSED MODIFICATION TO UNION TOWNSHIP'S ROUND 4 AFFORDABLE HOUSING OBLIGATION**



**Mayor David M. DeGiralamo, MD DMD  
Township Committeeman John R. Scott, Esq.**

**January 22, 2025**



# WHY WE ARE GIVING THIS PRESENTATION:

- The topic matters to ALL of us
- It is complicated
- We are committed to transparency in decision making and governance
- We are prepared to defend the interests of our residents, and this is **NOT** a bad thing



# **WE ARE GRATEFUL TO:**

- **Our Affordable Housing Sub-Committee (Committeewoman Kara Cherney, Planning Board Chairman Alan Ford, Planning Board Vice Chairman Brian Kirkpatrick, Engineer Bob Clerico, CFO Grace Brennan)**
- **Our Township Planner (Beth McManus)**
- **Our Counsel (Fred Semrau, Sue Sharpe)**
- **Our Union Township Resident Base**



# **KEY TAKEAWAYS**

**The topic of the provision of affordable housing in the state of New Jersey is not new.**

**Over multiple “rounds” of dialogue, spanning fifty years, municipalities across the state have been tasked with coming to terms with their share of obligation to address a State-wide unmet need.**



**In 2018, the then-Township Committee reached a settlement with the State of New Jersey on Union Township's affordable housing obligation through the first three rounds.**

**They arrived at a number of 305 affordable units.**

**It represents the HIGHEST percentage household increase in Hunterdon County.**

**THIS SETTLEMENT CANNOT BE CHANGED.**



**We strongly believe that our Township infrastructure (our schools, our roads, our environment) CANNOT bear the magnitude of the affordable housing burden already ascribed to us through Round 3.**

**ANY addition to this magnitude, in our opinion, will further stress our infrastructure.**



**As part of its assumptions on projected housing need, the State of New Jersey has proposed adding 118 units to our existing affordable housing allotment in “Round 4”.**

**The State is utilizing three variables to quantify its municipality-specific proportions. Among these variables is a “land capacity” factor, which highlights presumed developable land.**





**We believe that the State has overstated our Township's developable land, as it currently includes: 1) portions of the Edna Mahan correctional facility (over which we have no control), 2) preserved farmland and 3) numerous parcels too small to accommodate affordable housing.**

**Our determination provides what we believe is a defensible, well-reasoned rationale to reduce the burden of a Round 4 obligation.**



**It must be made clear here that our position is not a statement against affordable housing.**

**Rather, it is a resistance to inaccuracy, and it also is framed by the recognition that further increases to our existing burden will compromise our Township.**

**We are prepared to defend our community clearly, strongly and respectfully.**





**TOPICS TO BE  
COVERED IN THIS  
PRESENTATION**

# 1

Affordable Housing History,  
The Law and Union's  
Existing Obligations

# 2

The State's View on  
Prospective Need in the  
Region

# 3

Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For Union

# 4

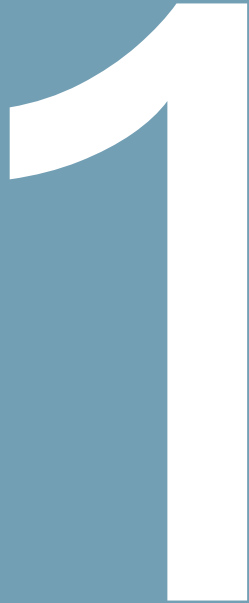
Union's Township's  
Proposed Modification to Its  
Round 4 Obligation

# 1

Affordable Housing History,  
The Law and Union's  
Existing Obligations

- 1975: NJ Supreme Court issued a landmark ruling, *Southern Burlington County NAACP v. Township of Mount Laurel*, creating a **“CONSTITUTIONAL OBLIGATION TO PROVIDE A “REALISTIC OPPORTUNITY”** for an appropriate variety and choice of housing and prohibiting municipalities from obstructing the creation of low and moderate income housing through the use of discriminatory zoning practices.
- Exclusionary zoning **OUTLAWED**

# AFFORDABLE HOUSING: WHO QUALIFIES?



	1 person	1.5 person	2 person	3 person	4 person	4.5 person	5 person	6 person	7 person	8 person
Median Income	\$102,340	\$109,650	\$116,960	\$131,580	\$146,200	\$152,048	\$157,896	\$169,592	\$181,288	\$192,984
Moderate	\$81,872	\$87,720	\$93,568	\$105,264	\$116,960	\$121,638	\$126,317	\$135,674	\$145,030	\$154,387
Low	\$51,170	\$54,825	\$58,480	\$65,790	\$73,100	\$76,024	\$78,948	\$84,796	\$90,644	\$96,492
Very Low	\$30,702	\$32,895	\$35,088	\$39,474	\$43,860	\$45,614	\$47,369	\$50,878	\$54,386	\$57,895

Source: AHPNJ April 12, 2024-Region 3

- Qualifications are based on income ranges.
- **“Moderate”**: Between 50-80% of median income
- **“Low”**: Less than 50% of median income
- **“Very Low”**: Less than 30% of median income
- The table above illustrates the income range for 2024

Affordable Housing History,  
The Law and Union’s  
Existing Obligations

# 1

## CONSTITUTIONALITY: WHY IS AFFORDABLE HOUSING AN OBLIGATION?

- **Article III of NJ Constitution grants Legislature power to regulate land use and Article IV allowed State to delegate to municipalities via the MLUL**
- **Power to zone is subordinate to State grant of authority**
- **The General Welfare clause gives rise to the constitutional obligation and is the mechanism Court's use to create the obligation**
- **State Supreme Court rulings consistently recognized as affordable housing as a constitutional obligation**

Affordable Housing History,  
The Law and Union's  
Existing Obligations

# 1

- **1983: NJ Supreme Court created a “fair share” formula and a new compliance and enforcement mechanism: **BUILDER’S REMEDY****
- **Developers can leverage affordable housing obligations to advance applications by promising to include such units. Developers can propose the buildout of affordable units plus market rate units at a **4:1 RATIO** (four market rate units for every one affordable unit).**

Affordable Housing History,  
The Law and Union’s  
Existing Obligations

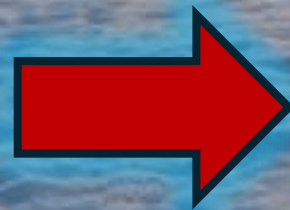


# 1

- 1985: NJ passed the Fair Housing Act (FHA) to implement the Mount Laurel Doctrine. Under this FHA, municipalities were then required to create a **HOUSING ELEMENT** as a component of the Municipal Master Plan (we will be undertaking a review of this element in the coming months)
- 2008: Definition of affordable housing expanded to include **“VERY LOW INCOME”** (prior: low and moderate), based upon median income ranges in each region; Regional Contribution Agreements **ABOLISHED**
- 2015: NJ Supreme Court held that the judicial system would be responsible for municipal compliance; Fair Share Housing Center would enter into **SETTLEMENT AGREEMENTS** with municipalities to ensure affordable housing objectives were met

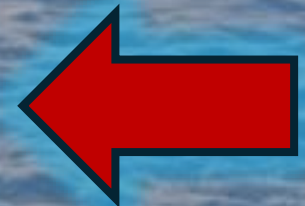
# 1

- 2017: NJ Supreme Court ruled that the “third round” of affordable housing obligations should run through 2025
- 2018: Union Township **SETTLED ITS ROUND 3 AFFORDABLE HOUSING OBLIGATION**
- 2019: Union Township received a “**JUDGMENT OF COMPLIANCE**” and protection from builder’s remedy lawsuits with the approval of its plan using a “durational adjustment” to meet its obligation
- Under the 2018 settlement, Union Township agreed to:



**305**

**Affordable Units  
Through Round 3**



Affordable Housing History,  
The Law and Union’s  
Existing Obligations

# SUMMARY OF UNION'S EXISTING OBLIGATION

# 1

- **305 TOTAL AFFORDABLE UNITS**

- 78 from Rounds 1 and 2
- 227 from Round 3


- **ZONE OVERLAYS:**

- “Foster Wheeler”, 53 Frontage Road (162 “for sale” affordable units or 152 affordable “rental units”)
- Red Hills Quarry, 5 Frontage Road (122 “for sale” affordable units or 114 affordable “rental units”)
- For sale and rental units vary in number, due to different densities per acre allowed per type of unit built

- **ESTABLISHED CREDITS**

- 25 UNITS (4 “traded” to Lambertville, 13 built, 8 “bonus credits” for special needs units)

# 1




**UNION'S OBLIGATION  
THROUGH ROUND 3 OF 305  
AFFORDABLE HOUSING UNITS  
IS...**

**REGRETTABLE**

Affordable Housing History,  
The Law and Union's  
Existing Obligations

# 1



ALEXANDRIA	90	
BETHLEHEM	100	
FRANKLIN	111	
	<hr/>	
	301	305 UNION

Affordable Housing History,  
The Law and Union's  
Existing Obligations

# 1

Affordable Housing History,  
The Law and Union's  
Existing Obligations

Municipality	Households US Census Bureau	Rehab	Prior Rounds	Round 3	Rounds 1-3 Total	Percentage per Household
Alexandria	1857	N/A	72	28	90	0.048
Bethlehem	1406	5	53	42	100	0.071
Bloomsbury	371	0	17	4	21	0.057
Califon	429	3	21	7	31	0.072
Clinton Twp.	4888	10	335	337	682	0.140
Delaware Twp.	1952	8	23	54	85	0.044
East Amwell	1628	9	40	55	104	0.064
Flemington	1974	17	4	39	60	0.030
Franklin	1257	0	36	75	111	0.088
Frenchtown	677	7	2	8	17	0.025
Glen Gardner	835	6	7	8	21	0.025
Hampton	650	2	2	7	11	0.017
High Bridge	1517	4	27	90	121	0.080
Holland	2099	N/A	42	43	85	0.040
Kingwood	1606	5	19	103	127	0.079
Lambertville	2265	1	0	137	138	0.061
Lebanon Boro	828	3	34	30	67	0.081
Milford	556	6	5	6	17	0.031
Raritan	8911	16	360	515	891	0.100
Readington	6552	0	394	192	586	0.089
Stockton	255	4	6	6	16	0.063
Towaco	2222	N/A	110	25	135	0.061
Union	1917	0	78	227	305	0.159
West Amwell	1209	4	16	52	72	0.060

# 1

UNION'S OBLIGATION  
THROUGH ROUND 3 IS THE  
LARGEST PROPOSED  
PERCENTAGE INCREASE OVER  
AN EXISTING RESIDENT BASE  
IN HUNTERDON COUNTY...

**...AND THE NUMBER CANNOT BE ALTERED**

Affordable Housing History,  
The Law and Union's  
Existing Obligations

# 2

The State's View on  
Prospective Need in the  
Region

**BUT WAIT...**

**...THERE'S MORE**





# 2

The State's View on  
Prospective Need in the  
Region

- **REGIONAL PROSPECTIVE NEED** defined:  
A projection of housing needs based on  
development and growth which is reasonably  
likely to occur in a region or a municipality



# 2

## The State's View on Prospective Need in the Region

- **DCA indicates that the Affordable Housing Law requires that the Round Four prospective need be calculated on the “projected household change for a 10-year round in a region...”**
- **“...This shall be estimated by establishing the household change experienced in the region between the most recent federal decennial census and the second-most recent federal decennial census.”**

**2010 - 2020**

# 2

The State's View on  
Prospective Need in the  
Region

## Regional Prospective Need Obligations by Housing Region

Housing Region	Counties	Regional Prospective Need	2010 Households - Decennial Census	2020 Households - Decennial Census	Change	Change Divided by 2.5 (Assumed Low- and Moderate- Income Household Growth)
1	Bergen, Hudson, Passaic, and Sussex	27,743	803,704	873,062	69,358	<b>27,743</b>
2	Essex, Morris, Union, and Warren	20,506	602,844	745,198	51,264	20,506
3	Hunterdon, Middlesex, and Somerset	11,604	446,114	475,123	29,009	<b>11,604</b>
4	Mercer, Monmouth, and Ocean	13,822	588,249	622,803	34,554	<b>13,822</b>
5	Burlington, Camden, and Gloucester	9,134	461,569	484,404	22,835	<b>9,134</b>
6	Atlantic, Cape May, Cumberland, and Salem	1,889	220,880	225,602	4,722	<b>1,889</b>
<b>TOTAL</b>		<b>84,698</b>	<b>3,214,360</b>	<b>3,426,102</b>	<b>211,742</b>	<b>84,698</b>

# 3

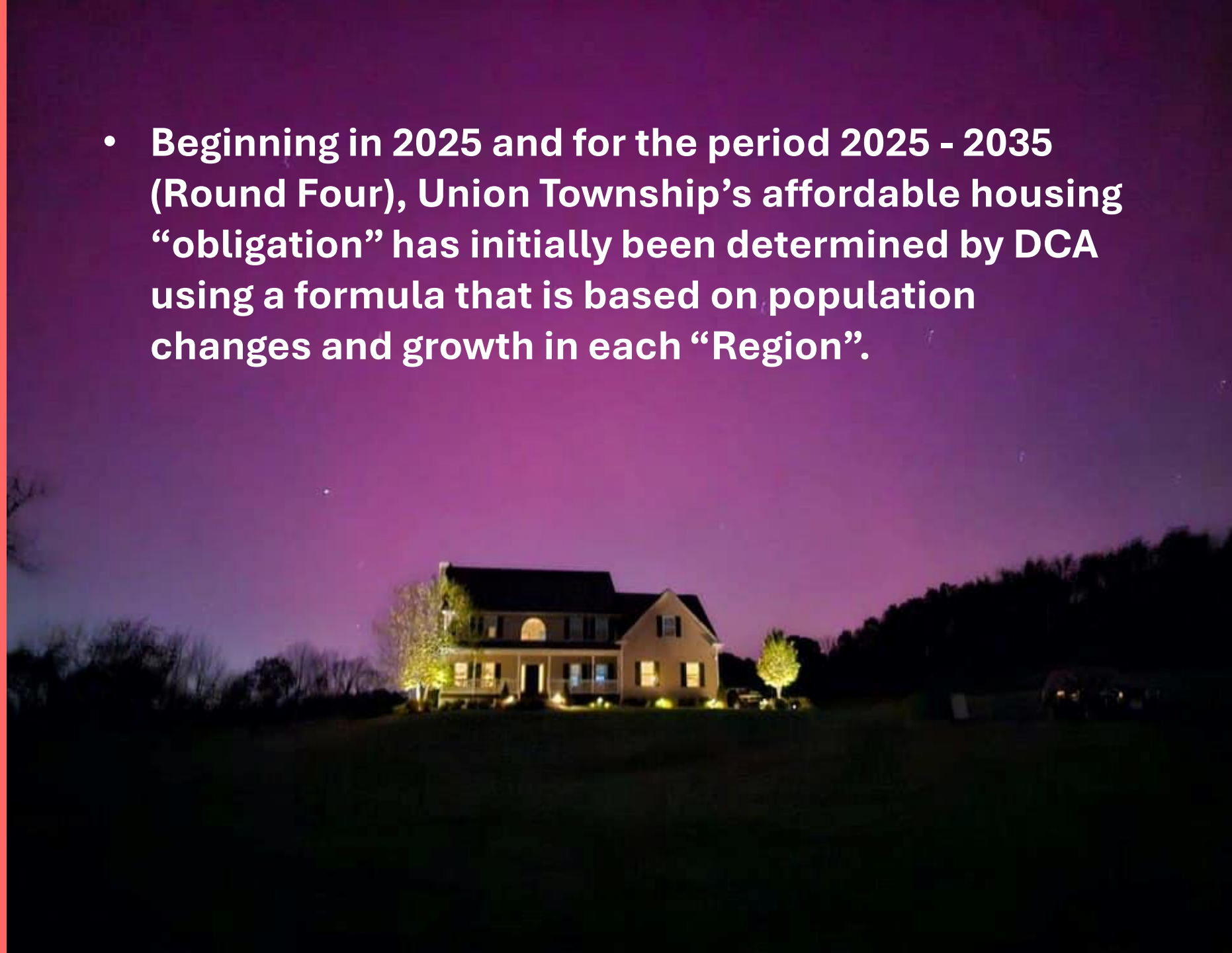
Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

## ROUND 4 PROCESS AND DEADLINES

- 10/20/24** DCA released its Round IV calculations to the Township
- 1/31/25** Township must pass a resolution setting forth what it believes its Round 4 obligation should be
- 2/28/25** Any objections to the Township's determination are due no later than February 28, 2025
- 3/1/25** If no objection, the municipality's determination would be determined based on the Township's submission
- 3/31/25** If an objection, a determination or judicial decision on a challenge and a declaration of a "Program Determination"
- 6/30/25** Municipality must adopt Housing Plan element/ necessary zoning ordinances to implement Round 4 obligation

# 3

- **Beginning in 2025 and for the period 2025 - 2035 (Round Four), Union Township’s affordable housing “obligation” has initially been determined by DCA using a formula that is based on population changes and growth in each “Region”.**



Round 4 Methodology and  
State’s Proposed Additional  
Housing Numbers For  
Union Township

# 3

- There are **THREE FACTORS** used in the State's formula to determine Union Township's potential affordable housing obligation for Round 4:

1

Equalized  
Non-residential  
Valuation Factor

2

Municipal  
Income Factor

3

Land Capacity  
Valuation Factor



Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

# 3

Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

## EQUALIZED NON-RESIDENTIAL FACTOR

- **The Affordable Housing Law requires that “...the changes in non-residential property valuations in the municipality, since the beginning of the round preceding the round being calculated, shall be calculated using data published by the Division of Local Government Services in the department.” It defines the beginning of this period as being **1999**.**



# 3

Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

## EQUALIZED NON-RESIDENTIAL FACTOR

- DCA added together the commercial and industrial property valuations for each municipality in each Region to obtain a total Regional non-residential valuation.
- Each municipality's equalized nonresidential valuation change was then divided by the change for its Housing Region to determine its Equalized Non-residential Valuation Factor.
- **Union Township's Valuation Factor: 0.14%**



# 3

## MUNICIPAL INCOME FACTOR

- The Income Capacity Factor measured the extent to which a municipality's income level differed from that of the lowest-income municipality in its Housing Region
- In our region, the baseline is **PERTH AMBOY**



Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

# 3

Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

## MUNICIPAL INCOME FACTOR

- It is calculated as the average of two measures.
- The first measurement used:
- “...the municipal share of the regional sum of the differences between the median municipal household income, according to the most recent American Community Survey Five-Year Estimates (time periods 2018 through 2022), and an income floor of \$100 below the lowest median household income in the region.”

# 3

Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

## MUNICIPAL INCOME FACTOR

- The second measurement used:
- “...the municipal share of the regional sum of the differences between the median municipal household incomes and an income floor of \$100 below the lowest median household income in the region, **weighted by the number of the households in the municipality.**”
- **Union Township's Income Factor: 0.89%**

# 3

Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

## LAND CAPACITY FACTOR

- The Land Capacity Factor is computed pursuant to statutory edict by determining, for each municipality, the total acreage that is **developable** utilizing the most recent land use / land cover (LULC) data from the New Jersey Department of Environmental Protection (DEP), the most recently available (released in 2024) MOD-IV Property Tax List data from the Division of Taxation in the Department of the Treasury, and construction permit data from the Department of Community Affairs.
- Weights were applied to developable lands based on the **planning area** type in which such land was located, as required by the Law.

## LAND CAPACITY FACTOR

DCA estimated **207 ACRES OF DEVELOPABLE LAND**  
for Union Township in the Planning Area

- Union Township's Land Capacity Factor: **2.01%**

# 3

Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

# 3

Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

## PUTTING IT ALL TOGETHER...

1

Equalized  
Non-residential  
Valuation Factor

0.14%

2

Municipal  
Income Factor

0.89%

3

Land Capacity  
Valuation Factor

2.01%



**Average: 1.01%**

**Units: 118 of the 11,604 for Region 3**

# DCA PROJECTIONS FOR ROUND 4

# 3

Round 4 Methodology and  
State's Proposed Additional  
Housing Numbers For  
Union Township

Municipality	County	Region	Present Need	Qualified Urban Aid Municipality	Equalized Nonresidential Valuation Factor	Land Capacity Factor	Income Capacity Factor	Average Allocation Factor	Prospective Need	1,000/20% Cap	Prospective Need with 1,000/20% Cap
Alexandria township	Hunterdon	3	0	NO	0.05%	0.68%	1.22%	0.65%	75	350	75
Bethlehem township	Hunterdon	3	0	No	0.05%	0.00%	1.28%	0.44%	51	269	51
Bloomsbury borough	Hunterdon	3	0	No	0.05%	0.00%	0.32%	0.13%	15	68	15
Califon borough	Hunterdon	3	0	No	0.03%	0.00%	0.56%	0.20%	23	81	23
Clinton town	Hunterdon	3	3	No	0.15%	0.24%	1.00%	0.46%	54	223	54
Clinton township	Hunterdon	3	0	No	0.38%	2.24%	1.88%	1.50%	174	932	174
Delaware township	Hunterdon	3	0	No	0.06%	0.00%	1.49%	0.52%	60	359	60
East Amwell township	Hunterdon	3	4	No	0.28%	0.00%	0.85%	0.38%	44	310	44
Flemington borough	Hunterdon	3	74	No	0.23%	0.02%	0.40%	0.22%	25	371	25
Franklin township	Hunterdon	3	0	No	0.04%	0.11%	1.19%	0.44%	52	234	52
Frenchtown borough	Hunterdon	3	11	No	0.07%	0.00%	0.49%	0.19%	22	126	22
Glen Gardner borough	Hunterdon	3	10	No	0.01%	0.00%	0.27%	0.09%	11	157	11
Hampton borough	Hunterdon	3	0	No	0.01%	0.00%	0.21%	0.07%	9	122	9
High Bridge borough	Hunterdon	3	4	No	0.09%	0.12%	0.64%	0.28%	33	285	33
Holland township	Hunterdon	3	0	No	-0.01%	0.17%	0.95%	0.37%	43	400	43
Kingwood township	Hunterdon	3	20	No	0.12%	0.00%	1.19%	0.44%	50	295	50
Lambertville city	Hunterdon	3	0	No	0.37%	0.00%	0.65%	0.34%	39	419	39
Lebanon borough	Hunterdon	3	7	No	0.16%	0.05%	0.59%	0.27%	31	159	31
Lebanon township	Hunterdon	3	0	No	0.10%	0.00%	1.09%	0.40%	46	474	46
Milford borough	Hunterdon	3	3	No	-0.03%	0.25%	0.37%	0.20%	23	105	23
Raritan township	Hunterdon	3	44	No	2.72%	3.38%	2.59%	2.90%	336	1,000	336
Readington township	Hunterdon	3	45	No	0.67%	12.00%	1.84%	4.84%	561	1,000	561
Stockton borough	Hunterdon	3	0	No	0.03%	0.00%	0.48%	0.17%	20	47	20
Stewksbury township	Hunterdon	3	0	No	0.11%	0.10%	1.74%	0.65%	76	457	76
Union township	Hunterdon	3	0	No	0.14%	2.01%	0.89%	1.01%	118	368	118

# 4

Union Township's Proposed  
Modification to Its Round  
Four Obligation





# 4

Union Township's Proposed  
Modification to Its Round  
Four Obligation

## OUR GUARD RAILS...

### WE MUST BALANCE:

- Protecting the interests of our residents
- Being held accountable as public officials representing our Township in pointing out the inaccuracies in the State's calculations...

...with

- Not being perceived by the State as problematic
- Staying within the confines of the law and what is a constitutional obligation



# 4

Union Township's Proposed  
Modification to Its Round  
Four Obligation

## CRITICAL CONSIDERATIONS

- State repeatedly noting an intention to “**maximize**” the **number of low and moderate income units** provided in New Jersey as required by Mount Laurel I and II and by creating new affordable housing and by rehabilitating existing substandard housing
- A municipality shall be authorized to seek approval of its fair share affordable housing obligation...with **non-binding guidance** of calculations published by the Department of Community Affairs
- A municipality shall determine its prospective fair share obligation **in accordance with the formulae established**

# 4

Union Township's Proposed  
Modification to Its Round  
Four Obligation

## CRITICAL CONSIDERATIONS

- “Development” means **any development for which permission may be required pursuant to the MLUL**: state owned land not subject to MLUL, preserved/deed restricted land not developable
- State Development and Redevelopment Plan is designed to represent a balance of **development and conservation objectives**
- If prior overlays are adjusted or modified, they must be **replaced**
- **30% of the affordable housing units can be age-restricted housing**



# 4

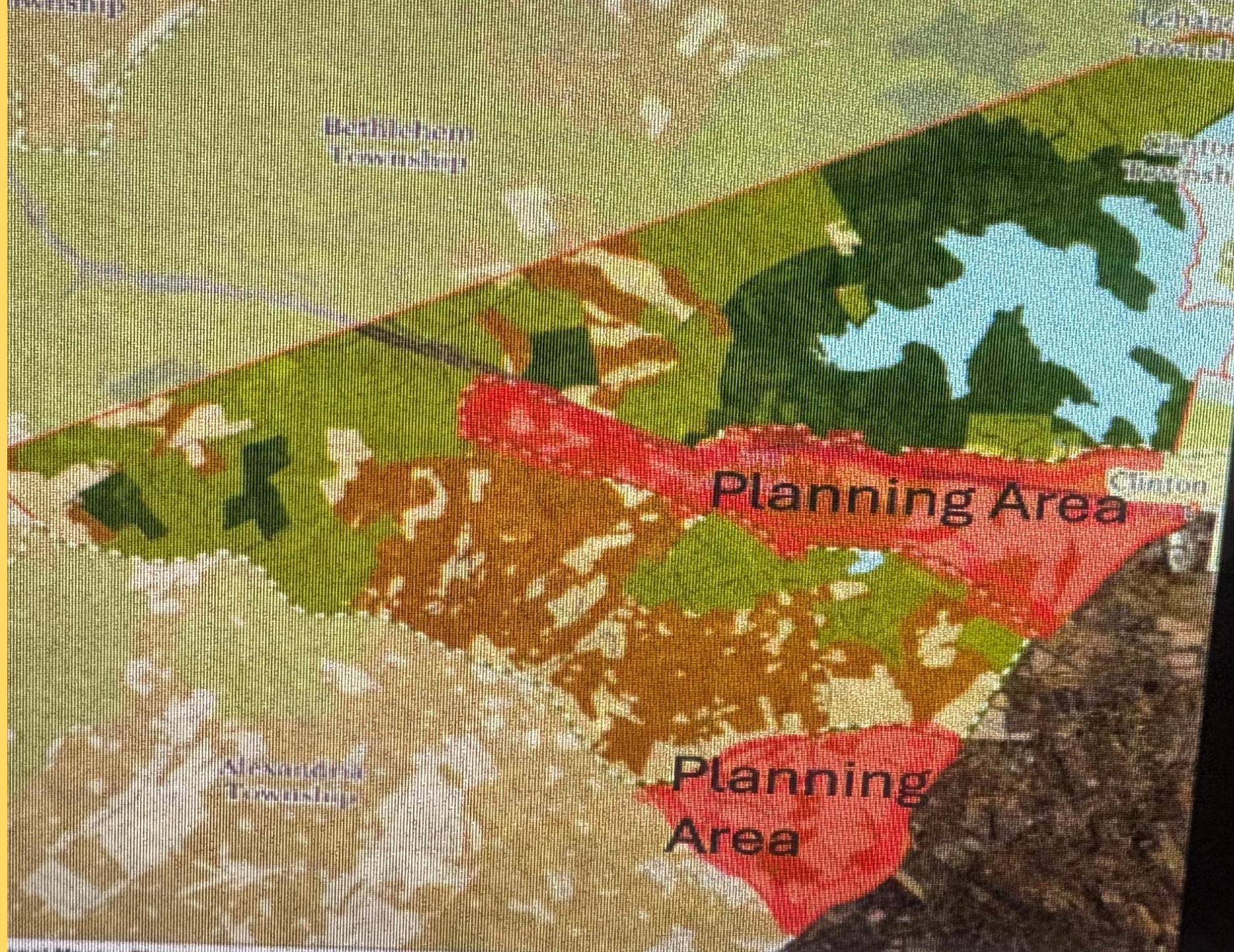
WHAT WE DID...

**OUR DUE DILIGENCE CENTERED ON CONDUCTING A COMPARATIVE ANALYSIS OF THE SPECIFIC PARCELS HIGHLIGHTED AS DEVELOPABLE IN THE DCA ESTIMATE**

Union Township's Proposed  
Modification to Its Round  
Four Obligation



# 4



Union Township's Proposed  
Modification to Its Round  
Four Obligation

# DCA Identified Parcels Versus Township Preserved Land

# 4



Union Township's Proposed  
Modification to Its Round  
Four Obligation

# OUR CORRECTIONS

# 4



**Removed LAND OWNED BY STATE, i.e. Edna Mahan Correctional Facility, over which we have no control**



**Omitted PRESERVED FARMLAND AND DEED-RESTRICTED LANDS**



**Omitted SMALL PARCELS that are not “developable” due to site limitations**

Union Township's Proposed  
Modification to Its Round  
Four Obligation

# IMPACT OF OUR CORRECTIONS

# 4



**Dropped DEVELOPABLE ACRES from 207...to 2.5**



**Equalized  
Non-residential  
Valuation Factor**

**Municipal  
Income Factor**

**Land Capacity  
Valuation Factor**

**0.14%**

**0.89%**

**2.01%**

**0.14%**

**0.89%**

**0.02%**

Union Township's Proposed  
Modification to Its Round  
Four Obligation

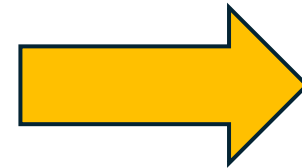


# IMPACT OF OUR CORRECTIONS

# 4

**DCA Guidance on  
Round 4 Units**

**118**



**Our Estimate on  
Round 4 Obligation**

**41**

**\*Represents a 65% reduction**

**\*Reduction of 77 affordable units (385 total units)**

Union Township's Proposed  
Modification to Its Round  
Four Obligation



**IN CONCLUSION**



- **While we are unable to change the settlement agreement from 2018 for 305 affordable units, we ARE able to make the case for a meaningfully reduced burden on our Round 4 obligation.**
- **We firmly believe that the position we intend to take on behalf of Union Township is the BEST CASE SCENARIO that can be afforded to us under the existing law and new formula enacted by the State legislature**
- **We believe the positions are consistent with the formula, are factually supported and are defensible, if challenged**
- **We are committed to defend Union Township interests in the event of a challenge based upon the facts as presented to you this evening and are both confident our position is sustainable and comfortable defending it**



**THANK YOU!**